

Congress of the United States

Washington, DC 20515

June 28, 2013

The Honorable Michael Froman
United States Trade Representative
Office of the United States Trade Representative
600 17th Street NW
Washington, D.C. 20508

Dear Mr. Froman:

Congratulations on your confirmation as the United States Trade Representative. It is a key position and we look forward to working with you on the important issues you must address.

We are writing today about one of these: including a “safe harbor” provision in the Trans-Pacific Partnership (TPP) Agreement that will preserve U.S. laws and regulations that protect the public from the dangers of tobacco products. The tobacco companies have a history of using trade agreements to undermine laws that stop them from targeting children and endangering public health. As you negotiate the terms of the TTP, we urge you to ensure that it contains language that safeguards these vital public health protections.

In 2009, Representative Waxman wrote the law that gave FDA jurisdiction over tobacco products. One important provision in the law contained a ban on candy-like flavorings that appeal to youth smokers. Kretek International, an Indonesian tobacco company that sells a clove-flavored cigarette that is attractive to children, objected to the ban and persuaded Indonesia to bring a challenge to the ban in front of the World Trade Organization. Incredibly, the WTO panel upheld the right of Kretek to sell clove-flavored cigarettes, endangering the health of children in the United States.

Currently, Philip Morris is using Australia’s Bilateral Investment Treaty with Hong Kong to challenge an Australian ban on color and images on tobacco packages.

These efforts by tobacco companies to subvert public health measures are deplorable. They are also persuasive evidence of the need to ensure trade agreements contain provisions that protect U.S. anti-tobacco public health laws. The best way to achieve this would be to exempt tobacco from the trade agreement. If this is not possible, you should at a minimum insist on language protecting U.S. laws and public health regulations relating to tobacco from trade challenges.

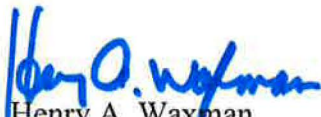
Additionally, the “Doggett Amendment” and the Clinton Administration’s Executive Order 13193 on Federal Leadership on Global Tobacco Control and Prevention both prohibit the U.S. government from promoting the sale or export of tobacco products. Since lowering the cost of tobacco products is a powerful sales promotion we believe that tobacco products should be excluded from tariff schedule reductions in the TPP.

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Thank you for considering these views. As Representative Waxman noted in a May 2012 letter to Ambassador Kirk, we welcome USTR's commitment to tobacco control efforts. We hope you will work with us as the negotiations progress to ensure that U.S. public health laws relating to tobacco are fully protected.

Sincerely,



Henry A. Waxman

Ranking Member

Committee on Energy and Commerce



Lloyd Doggett

Member of Congress